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Senate Bill 59 (Substitute S-3)
Sponsor: Senator Mike Green
Committee: Natural Resources, Environment and Great Lakes

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CONTENT

The bill would amend the handgun licensure law to do the following:

- Effective January 1, 2013, eliminate county concealed weapon licensing boards and transfer their duties and functions to county sheriffs.
- Refer to a "licensing authority" rather than a concealed weapon licensing board.
- Allow a CPL applicant or licensee to seek an exemption from a prohibition against carrying a concealed pistol on certain premises (no-carry zones), and allow the person to appeal a denial of a requested exemption.
- Reduce the timeline for processing an initial or renewal CPL application.
- Authorize a licensing authority to require a CPL applicant to appear before it only if the authority had reason to believe the applicant might not qualify for a license.
- Require the application fee to be partially refunded to an individual whose application was not processed within the prescribed timeline.
- Require each county to establish a concealed pistol licensing fund for administration of the law.
- Require immediate reinstatement of a suspended CPL when the suspension period expired, and prescribe a maximum fee of \$10 for the reinstatement and return of a license.
- Revise provisions related to the appeal of a license denial.

- Revise the information that must be included in an annual report to the Legislature by the Michigan Department of State Police (MSP).
- Revise requirements for the pistol safety training course required for a CPL.
- Require the county clerk to notify a licensee before his or her CPL expired.

The bill also would repeal a section allowing a concealed weapon licensing board to issue a license for the use of gas ejecting devices to protect premises, vehicles, people, and property from criminal assaults.

Transfer of Licensing Board Authority

The law requires each county to have a concealed weapon licensing board consisting of the county prosecuting attorney, the county sheriff, and the MSP Director, or the designee of any of those individuals. If a county prosecuting attorney chooses not to be a member, the county board of commissioners must appoint a replacement who is a firearms instructor and meets prescribed qualifications. To obtain a CPL, an individual must apply to the concealed weapon licensing board in the county in which he or she lives.

Effective at midnight on December 31, 2012, the bill would eliminate the county concealed weapon licensing boards and transfer their duties, functions, and responsibilities to the county sheriffs. The bill would refer to a "licensing authority", rather than a

concealed weapon licensing board, throughout the law. Through December 31, 2012, "licensing authority" would mean the concealed weapon licensing board having the authority under the law to issue to an applicant a license to carry a concealed pistol. Beginning January 1, 2013, the term would mean the county sheriff having the authority under the law to issue a CPL.

Each county licensing board would have to transfer all license applications and official documents in its possession to the sheriff of the county in which the board was located by 12 midnight on December 31, 2012. All pending applications would remain in place, and the sheriff for that county would have to process them as provided in the law as licensing authority for that county. The sheriff could not charge any additional fee for receiving or processing an application submitted previously to the county board, except as otherwise provided in the law. A license to carry a concealed pistol issued by a county licensing board before that deadline would be valid and remain in effect until it expired or as otherwise provided by law.

License Application & Issuance

Evaluation & Investigation of Applicants. Under the law, the concealed weapon licensing board has exclusive authority to issue, deny, revoke, or suspend a CPL. The board may convene up to three panels to assist it in evaluating applicants. The bill provides that the authority of any panel convened under this provision would expire not later than 12 midnight on December 31, 2012.

As part of the licensing process, a concealed weapon licensing board may investigate an applicant for licensure. The board may require the applicant to appear before it at a mutually agreed-upon time for a conference. The bill specifies that the licensing authority could require the applicant to appear before it for a conference only if the authority had reason to believe that the applicant might not be qualified to receive a CPL. The notification to appear would have to be given to the applicant in person or in a sealed envelope delivered by first-class mail sent to his or her address on record with the licensing authority. The notification would have to include a specific statutory citation to each disqualification to be addressed.

The conference would have to be held at a date and time that was mutually agreeable to the board and the applicant.

Application Info & Fees. The law requires the application for a CPL to contain specific information, including the names, addresses, and telephone numbers of two individuals who are references for the applicant. The bill specifies that references could not be related to the applicant or be members of his or her household. The application also must include a passport-quality photograph provided by the applicant at the time of application. Under the bill, the photograph also could be taken by the county clerk at no additional charge. Also, the application would have to include the applicant's signature, obtained by the county clerk at the time of application.

The law prescribes a nonrefundable application and licensing fee of \$105, payable to the county. The bill would require the fee to cover all costs in the application and licensing process, including the denial or issuance of a license.

Currently, the county treasurer must deposit \$41 of each fee in the county general fund, depositing \$26 to the credit of the county clerk and \$15 to the county sheriff. The county treasurer must forward the remaining balance of the fee to the State Treasurer for deposit in the General Fund to the credit of the MSP. Under the bill, the \$41 would have to be deposited in the proposed concealed pistol licensing fund.

Verification of Information. The law requires the county sheriff to verify that an applicant meets the law's requirements for a license through the Law Enforcement Information Network and report his or her finding to the board. Under the bill, the requirement that the sheriff report to the licensing board would apply through December 31, 2012.

If the applicant resides in a city, village, or township that has a police department, the licensing board must contact that police department to determine only whether it has any information relevant to the investigation of whether the applicant is eligible to receive a CPL. The bill would refer to the licensing authority rather than the board in this provision. Also, if the applicant did not reside in a city, village, or township with a police department, the licensing authority

would have to contact the sheriff and the applicable MSP post to determine only whether that department or post had any relevant information.

Fingerprinting. Under the law, after submitting an application and paying the required fee, an individual must request and have classifiable fingerprints taken by the county sheriff or a local police agency, if that police agency maintains fingerprinting capability. If the individual requests that the fingerprints be taken by a local police agency, he or she also must pay a fee of \$15 to that police agency. The sheriff or police agency must take the fingerprints within five business days after the request. The bill would require county sheriffs and police agencies that maintained fingerprinting capability to provide reasonable access to fingerprinting services as necessary to comply with the fingerprinting requirements.

The law requires the fingerprints to be forwarded to the MSP for comparison with fingerprints already on file. The MSP must forward them to the Federal Bureau of Investigation (FBI). Within 10 days after receiving a report of the fingerprints from the FBI, the MSP must give a copy to the submitting sheriff's department or local police agency and the appropriate clerk. The bill would reduce this time period to seven days.

Except as otherwise provided, the concealed weapon licensing board may not issue a CPL until it receives the fingerprint comparison, and may deny a license if a person's fingerprints are not classifiable by the FBI. Under the bill, this would apply to the licensing authority, which could deny a license if the fingerprints were not classifiable and a report could not be obtained based on the person's name, date of birth, and other identifying information.

Issuance or Denial of License. Under the law, the licensing board must issue or deny a license within 45 days after receiving the fingerprint comparison report. The bill would require the licensing authority to issue or deny the license within 45 days after the date of application. In addition, the licensing authority would have to include an exemption from the no-carry zone prohibition if the applicant requested the

exemption on his or her application form and were eligible for it under the law.

Currently, if the licensing board denies issuance of a license, within five business days it must inform the applicant in writing of the reasons for the denial, as well as the applicant's right to appeal the denial to the circuit court. The bill would refer to the licensing authority in this requirement and increase the time period from five to seven business days. In addition, this requirement would apply if the licensing authority denied a requested exemption from the no-carry zone prohibition.

Temporary License & Refunds. Currently, if the concealed weapon licensing board does not receive the fingerprint comparison report within 60 days after it is forwarded to the MSP, the board must issue a temporary license to an applicant who is otherwise qualified for a license. The bill would delete this provision. Instead, if a license were not granted or denied within 45 days after the application was properly submitted, within seven days, the clerk of the licensing authority would have to refund \$41 of the application fee to the applicant and issue a temporary license.

The MSP would have to prepare a form for obtaining refunds and include it in the kits that must be provided to CPL applicants free of charge under the law.

Currently, a temporary license is valid for 180 days or until the licensing board receives the fingerprint comparison report and issues or denies issuance of a license. Under the bill, a temporary license would be valid for 180 days or until the licensing authority issued or denied issuance of the license. A temporary license would have to indicate on its face that it was temporary.

Under the law, an applicant who received a temporary license must surrender it to the licensing board upon issuance or denial of a regular license. The bill would prohibit a licensing authority from charging a fee for issuing a license upon surrender of a temporary license.

Delivery of License. The bill would require a county clerk issuing an initial, renewal, temporary, or replacement license to mail it to the licensee by first-class U.S. mail in a sealed envelope. A clerk issuing a

reinstated license to an individual whose license was suspended, however, could not mail it in this manner, but would have to deliver it to the individual upon payment of the \$10 fee.

License Specifications. Beginning January 1, 2013, a CPL would have to be constructed of plastic laminated paper or hard plastic using equipment and software from vendors approved by the MSP. No additional fee could be charged for the license.

The license also would have to include whether the individual was exempt from the no-carry zone prohibition.

Appeal of License Denial/Issuance Failure. Under the law, if the licensing board denies issuance of a license or fails to issue one as provided, the applicant may appeal to the circuit court. If the court determines that the denial or failure to issue a license was clearly erroneous, the court must order the board to issue a license as required by the law. The bill would refer to the licensing authority in these provisions, and include the licensing authority's failure to provide a no-carry zone exemption. In addition, the bill would require the court to order issuance of a license or provide an exemption if the court determined that the denial or failure to issue a license or provide an exemption was arbitrary and capricious.

Currently, if the court determines that the board's decision was arbitrary and capricious, the court must order the State to pay one-third and the applicable county to pay two-thirds of the applicant's actual costs and attorney fees in appealing the denial. Under the bill, the court would have to order the county in which the licensing authority was located to pay all of the applicant's actual costs and attorney fees in appealing. In addition, the court would have to order the entire amount of the application fee to be refunded to the applicant. The court could award additional costs for the appeal of not more than \$500 as determined by the court.

Under the law, if the court determines that an applicant's appeal was frivolous, the court must order him or her to pay the actual costs and attorney fees of the concealed weapon licensing board in responding to the appeal. The bill would delete this provision.

Concealed Pistol Licensing Fund

The bill would require each county to establish a concealed pistol licensing fund for the deposit of fees collected under the law. The county treasurer would have to direct investment of the fund and credit to it any interest and earnings.

Of the application fee deposited in the fund, \$26 would have to be credited to the county clerk and \$15 would have to be credited to the county sheriff. If a license replacement fee or a \$10 fee collected for a replacement license indicating a no-carry zone exemption were deposited, \$5 would have to be credited to each account.

Money credited to the fund would have to be spent in compliance with the Uniform Budgeting and Accounting Act, subject to an appropriation. Fund expenditures would have to be used by the county clerk as clerk of the licensing authority, and by the licensing authority, from each of their respective accounts within the fund, only for the cost of administering the law. Allowable expenditures would include paying for any of the following costs of the licensing authority or of the county clerk or licensing authority clerk:

- Staffing requirements.
- Technology upgrades, including technology to take fingerprints by electronic means.
- Office supplies.
- Document storage and retrieval systems and system upgrades.

No-Carry Zone Exemption

Under the bill, the CPL application would have to allow the person to designate whether he or she sought an exemption from the prohibition under Section 50 against carrying a concealed weapon on certain premises (commonly called no-carry zones).

An individual who applied for and was granted an exemption from Section 50 when he or she applied for an original or renewal license could not be required to pay any additional fee. An individual who held a valid license and who applied for an exemption at a time other than when he or she applied for an original or renewal license would have to pay a fee of not more than

\$10 for the application and replacement card reflecting the exemption, if the exemption were granted. The fee would have to be deposited in the county concealed pistol licensing fund.

Under Section 50, an individual who is licensed to carry a concealed pistol or who is exempt from licensure may not carry a concealed pistol on the premises of any of the following:

- A school or school property, except that a parent or legal guardian of a student of the school may carry a concealed pistol while dropping the student off at school or picking the student up.
- A public or private child care center or day care center, child caring institution, or child placing agency.
- A sports arena or stadium.
- A bar or tavern, unless the person is an owner or employee of the business.
- Any property or facility owned or operated by a place of worship, unless permitted by the presiding officials.
- An entertainment facility with a seating capacity of at least 2,500 people.
- A hospital.
- A dormitory or classroom of a community college, college, or university.

These prohibitions do not apply to any of the following:

- A CPL holder who is a retired police officer or retired law enforcement officer.
- A CPL holder who is employed or contracted to provide security services by any of the entities where carrying a concealed pistol is otherwise prohibited, and who is required by his or her employer or the terms of a contract to carry a concealed firearm.
- A licensed private investigator or private detective.
- A CPL holder who is a corrections officer of a county sheriff's department.
- A CPL holder who is a motor carrier officer or Capitol security officer of the MSP.
- A CPL holder who is a member of a sheriff's posse.
- A CPL holder who is an auxiliary or reserve officer of a police or sheriff's department.

The bill would add to this list an individual who applied for and was granted an exemption from the licensing authority. An individual would be eligible for an exemption only if he or she requested it on his or her license application and at least one of the following applied:

- The individual was certified as a firearms instructor by the State or a national or state firearms training organization, and was eligible to provide training under the law.
- The individual was a licensee or was applying for an initial or renewal license or an exemption, and provided a certificate indicating on its face that he or she had completed at least nine hours of training in addition to the training required under the law.

With regard to a certified firearms instructor, it would be prima facie evidence that the individual was eligible for an exemption if he or she possessed a certificate as a firearms instructor issued by the State or by a national or state firearms training organization that met the requirements of the law.

The additional nine hours of training required for a licensee or applicant would have to include both classroom and range time; include the firing of at least an additional 94 rounds; focus on the training principles described in the law as they apply to public places where carrying a concealed pistol is prohibited; and be provided by an agency of the State or by a national or state firearms training organization. The training instructor would have to be certified as a firearms instructor by the State or a national or state firearms training organization and be eligible to provide the required training. Also, the training would have to be completed within five years before the date of application for an original or renewal license or an exemption.

MSP Database

The law requires the MSP to create and maintain a computerized database of individuals who apply for a CPL. The database may contain only the following information as to each individual:

- His or her name, date of birth, address, and county of residence.

- The person's license number and date of expiration, if he or she is licensed to carry a concealed pistol.
- If the individual was denied a CPL, a statement of the reasons for that denial.
- A statement of all criminal charges pending and convictions obtained against the person during the license period.
- A statement of all determinations of responsibility for civil infractions of the handgun licensure law pending or obtained against the person during the license period.

Under the bill, if the individual were licensed to carry the CPL, the database also would have to include any exemptions on the license.

MSP Annual Report

The law requires the MSP to file with the Secretary of the Senate and the Clerk of the House of Representatives an annual report setting forth specific information for each county licensing board. The information includes the number of CPLs revoked and categories for revocation. Under the bill, the report also would have to include the number of CPLs suspended and categories for suspension.

The report also must include the number of charges of State civil infractions of the law or charges of criminal violations filed against licensed individuals that resulted in a finding of responsibility or a criminal conviction. The report must indicate the number of crimes in each category of criminal offense that involved the brandishing or use of a pistol, the number that involved the carrying of a pistol by the CPL holder during the commission of the crime, and the number in which no pistol was carried by the CPL holder during the commission of the crime. Under the bill, the report also would have to indicate the total number of people charged and the total number found responsible or convicted.

Pistol Training & Safety Program

A pistol training and safety program meets the law's requirements for knowledge or training in the safe use and handling of a pistol only if it consists of at least eight hours of instruction and all of the following conditions are met:

- The program is certified by the State or a national or state firearms training organization and provides five hours of instruction in specific topics.
- The program provides at least three hours of instruction on a firing range and requires firing at least 30 rounds of ammunition.
- The program provides a certificate of completion that states that the program complies with the law's requirements and that the individual successfully completed the course, and that contains the printed name and signature of the course instructor.
- The instructor was certified by the state or a national organization to teach the courses.

The bill would require that the training be provided within five years preceding the date of the CPL application. In addition, the bill would increase the minimum number of ammunition rounds fired from 30 to 98. Beginning January 1, 2013, all of the following information also would have to be printed on the face of each certificate:

- The instructor's name and address, and, if available, telephone number.
- The name and telephone number of the national organization that certified the individual as an instructor, his or her instructor certification number, if any, and the expiration date of the certification.
- The name of the course, if applicable, the total number in hours of instruction received, and the number of rounds fired.

The bill would prohibit the licensing authority from requiring any other instructor certification or requiring the instructor to register as an instructor with the county.

Carrying Under the Influence

The law prohibits an individual from carrying a concealed pistol while he or she is under the influence of alcoholic liquor or a controlled substance, or while he or she has a prohibited bodily alcohol content. The bill would refer to a controlled substance "contrary to a doctor's instructions".

License Expiration & Renewal

A CPL is valid until the applicant's date of birth that falls at least four years but not more than five years after the license is issued or renewed, as applicable. The bill would require the county clerk to notify the licensee that his or her license was about to expire and could be renewed. The clerk would have to send the notice to the licensee's last known address as shown on the clerk's records. The notification would have to be sent in a sealed envelope by first-class mail at least three months but not more than six months before the expiration date.

An applicant would be eligible for a license renewal if his or her license were not expired, or if it expired within five years before the date of application.

Currently, a licensing board must issue or deny issuance of a renewal license within 60 days after the application is properly submitted. If the board fails to deny or issue the renewal license by that deadline, the expiration date of the current license is extended by 180 days or until the renewal license is issued, whichever comes first. The bill would require the licensing authority to issue or deny issuance of a renewal license within 45 days after the application was submitted. If the authority did not meet that deadline, the clerk would have to refund \$41 of the application fee to the applicant within seven days.

The MSP would have to prepare a form for obtaining the refunds and include it in concealed pistol application kits.

The law waives the educational requirements for an applicant for renewal, but requires the applicant to certify that he or she has completed at least three hours' review of the required training and has had at least one hour of firing range time within six months before applying. The bill would require the applicant to have fired at least 98 rounds during the firing range time. The educational and firing range requirements would be met if the applicant certified on the renewal application form that he or she had complied with them. The licensing authority could not charge any additional fee to notarize or otherwise require verification of these statements.

CPL Reinstatement

Under the bill, if a licensing authority ordered a CPL suspended and the licensee surrendered the license, upon the expiration of the suspension period, the licensing authority would have to reinstate the license automatically without charge if the license were suspended as required and were not expired, and the individual were otherwise qualified to receive a CPL.

The licensing authority would have to notify the individual that his or her license had been reinstated, by first-class mail sent to his or her last known address. A licensing authority could charge, and a county clerk would have to collect, not more than \$10 for the reinstatement and return or replacement of a reinstated license.

(Under the law, if a concealed weapon licensing board determines by clear and convincing evidence based on specific articulable facts that the applicant poses a danger to himself or herself or any other person, the board immediately must suspend the individual's license pending a revocation hearing. The board must send notice of the suspension to the individual's last known address. The notice must inform the person that he or she is entitled to a prompt hearing on the suspension. The board must conduct a prompt hearing if requested. The bill would refer to the licensing authority in these provisions.)

Firearms Laws Compilation

The law requires the Legislative Service Bureau (LSB) to compile the State's firearms laws and provide copies to each concealed weapon licensing board for distribution. Under the bill, the LSB would have to provide copies to the MSP in an electronic format. The MSP would have to give a copy to each licensing authority in the State, together with information regarding the rights and responsibilities of applicants, license holders, and licensing authorities under the law. The MSP also would have to provide forms to appeal any denial, suspension, or revocation of a CPL. The MSP would have to distribute copies of the compilation, information, and forms in hard copy and electronic format to each licensing authority in sufficient quantity to meet demand.

Gas Ejecting Devices

The bill would repeal Section 6a, which allows a concealed weapon licensing board to issue to any bank, trust company, armored car company, railway company, express company, or other company, institution, copartnership, or individual in possession of large sums of money or other valuables, a license authorizing the licensee to equip its premises or vehicles with gas ejecting devices to be used solely to protect those premises or vehicles, and the people or property in them, from criminal assaults.

MCL 28.421 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a minimal fiscal impact upon the Department of State Police compared to current concealed weapon licensing law costs. Minor additional costs would result from new requirements to add information to the CPL and to provide hard copies of a compilation of all firearms laws of the State to licensing authorities in sufficient quantity to meet demand. These costs most likely would be offset by the elimination of the current requirement that a representative of the State Police be a member of each concealed pistol licensing board. Under the law, the Department receives \$64 from each \$105 application fee; \$49.25 of that is to cover the costs of the required fingerprint background checks of each applicant.

The remaining \$41 from the \$105 application fee is distributed to the credit of the county clerk (\$26) and to the credit of the county sheriff (\$15). Under the bill, these funds would go to the county concealed pistol licensing fund, and would help offset the administrative costs on the part of county government as required under the bill, but could fall short in compensating fully the costs incurred by sheriff's departments, where costs can vary widely. According to the Michigan Sheriff's Association, each application under the bill would require a minimum of one hour of a sheriff's deputy's time, which has been estimated by the Sheriff's Association to cost between \$25 and \$45, depending upon the department, an amount that could be well above the \$15 provided to them from an

application fee under the bill. This cost would be offset by the removal of the requirement that the sheriff's department participate in county concealed weapon licensing boards and review panels. It is also unclear what the financial burden might be on the counties if they were responsible for payments required by successful court actions against licensing decisions made under the bill.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.